

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 3519 of 2018 (O&M)****Date of Decision: 19.10.2023**

Sukhwinder Singh

... Petitioner(s)

Versus

Tara Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Alok Mittal, Advocate
for the petitioner(s).Mr. Karanjit Singh, Advocate
for the respondent No.1.**Anil Kshetarpal, J.**

1. The correctness of the concurrent orders passed by both the Courts below, while dismissing the petitioner's (defendant No.3) application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") to set aside the *ex parte* judgment and decree has been assailed.

2. It has come on record that previously, the defendant No.1 had filed a suit to claim ownership of the property on the basis of the lapse of time by way of adverse possession. The aforesaid suit was dismissed on 28.02.2002, which, in appeal, was affirmed on 31.07.2003. Thereafter, the plaintiff has filed a suit for possession of the suit property claiming that the defendant No.1, after encroaching the area, has constructed the shops and delivered possession to the defendant No.2 and 3. In the said suit, the

summons sent to all the three defendants were received back with the report

that they have refused to accept the same. The Process Server pasted the notices along with the copy of plaint at the conspicuous spaces on the shops constructed on the property in dispute. Thereafter, a local proclamation was ordered, but the defendants never appeared. Ultimately, the *ex parte* judgment and decree for possession was passed on 06.09.2012. The application filed by the petitioner under Order IX Rule 13 CPC has been dismissed by both the Courts below.

3. It has also come on record that during the pendency of the suit, the defendant No.1 has filed an application for setting aside the *ex parte* proceedings. On the “no objection” of the plaintiff, the aforesaid *ex parte* proceedings were set aside. However, the defendant No.1 did not continue to contest the case which forced the Court to strike off his defence.

4. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

October 19, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No